

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3522 of 2016

Vikash Chandra Guddu Baba S/o Late Ramashraya Prasad Singh Presently
residing at Mahatma Gandhi Path, Kurji - Baluper, P.O. Sadakat Ashram, P.S.
Digha, District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Department of Home, Govt. of Bihar, Old
Secretariate, Patna
3. The Director General of Police, Bihar, Patna null null
4. The Principal Secretary, Department of Health, Government of Bihar, New
Secretariate, Patna
5. The Director - in - Chief, Health Services, Bihar, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 18383 of 2016

Bidyapati Nirala son of Late Khushi Lal Raut Resident of Village-Arela, P.S.-
Moro, District-Darbhangha

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Sub-Divisional Officer, Sadar, Darbhanga
3. The Circle Officer, Anchal Hanuman Nagar, Darbhanga
4. The Incharge Medical Officer, Additional Health Centre, Arela, Anchal-
Hanuman Nagar, District-Darbh

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 3522 of 2016)

For the Petitioner/s : Mr.Vikash Chandra Guddu Baba

For the Respondent/s : Mr.Devendra Kumar Sinha, AAG-12

(In Civil Writ Jurisdiction Case No. 18383 of 2016)

For the Petitioner/s : Mr.Dharmendra Jha, Advocate

For the Respondent/s : Mr.Subhash Chandra Yadav, GP-15

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)



Date : 18-09-2023

C.W.J.C. No. 3522 of 2016, is concerned with the encroachments upon the premises or lands of different areas of the District Hospitals, Sadar Hospitals, Prathmik Health Centres/Up-Prathmik Health Centres under the State of Bihar. The said hospitals are stated to be running under the control of Civil Surgeon-cum-Medical Officer of the respective districts, none of whom were impleaded in the writ petition. The petitioner relied on the response to a query made under the Right to Information Act, 2005 (for brevity, RTI Act) by the Deputy Director-cum-Public Information Officer, Health Services, Bihar produced as Annexure-1 to the writ petition. The petitioner is said to have made a representation to the Chief Secretary, Government of Bihar, on 02.09.2014, seeking removal of the encroachments, especially, annexing the details supplied to him under the RTI Act. The petitioner claimed that he had filed earlier litigations also to remove encroachments from public places and asserted himself to be a public-spirited person who, in the present case was also motivated by the same spirit.

2. We perfectly understand the public spirit involved but, we are of the opinion that there should have been



proper parties impleaded. Be that as it may, there were orders passed in the writ petition, which we bow down to and there has been removal of encroachments carried out.

3. As of now, we specifically refer to the supplementary counter affidavit filed on behalf of the 4th respondent on 15.12.2020, filed by the Principal Secretary, Health Department, Government of Bihar, Patna, which was in compliance of the orders passed in the above writ petition dated 23.11.2020.

4. The Special Secretary, Health Department, vide letter no. 340 (10) dated 03.12.2020, issued direction to the Civil Surgeon Aurangabad, Bhagalpur, Motihari, Gaya, Kisanganj, Muzaffarpur, Munger, Saran (Chapra) and Betiah to submit current status report with directions to take steps for immediate removal of the encroachments, if already not removed and make a fresh report available to the department within 24 hours. Subsequently, encroachments from the premises of all the District Health Institutions in the said districts have been removed, and as regards the other districts the authorities are taking steps to remove the encroachments.

5. The status report received from the Civil Surgeon, Aurangabad vide letter 2543 dated 8.12.2020 indicates



removal of encroachments and counter affidavit dated 27.01.2020 reports that there is no encroachment in the Hospital building premises in Aurangabad. The current status report received from the Civil Surgeon, Bhagalpur vide letter no. 3981 dated 14.12.2020 also speaks of steps regarding removal of encroachment already taken and the constant efforts to make the health institution free from encroachment.

6. The Civil Surgeon, East Champaran, Mothihari vide letter no. 4186 dated 04.12.2020 reports that there is no encroachment in the hospital building premises in Motihari except Tetaria, Primary Health Centre for which earlier the Civil Surgeon requested the S.P. Mothihari to take necessary action to vacate the premises. The Civil Surgeon, Gaya vide letter No. 4044 dated 03.12.2020 has stated that there is no encroachment in health premises except Gautama Buddha Kushthashram, Gaya for which steps have been taken and requested Circle Officer (City) Gaya to take necessary action to remove such encroachment. The letter received from the Civil Surgeon Kishanganj vide letter no. 3121 dated 07.12.2020 reports that there is no encroachment in the hospital building premises in Kishanganj except Sadar Hospital, Kishanganj for which removal steps have been taken. The report received from the



Civil Surgeon Muzaffarpur vide letter no. 5554 dated 08.12.2020 also confirms the steps regarding removal of encroachment and a supplementary counter affidavit also is filed dated 16.03.2020.

7. The Civil Surgeon Munger vide letter no. 2826 dated 10.12.2020 states that the steps regarding removal of encroachment have already been taken and also filed supplementary counter affidavit dated 03.03.2020. As per report received from the Civil Surgeon Saran (Chapra) vide letter no. 2527 dated 08.12.2020 there is no encroachment in the health premises in Saran (Chapra) district. The status report received from the Civil Surgeon, Betiah vide letter no.1797 dated 07.12.2020 also asserts that there are no encroachments in the health premises in Betiah district.

8. It is undertaken by the deponent that he is relentlessly pursuing the removal of encroachments in the premises of the health institutions in all the districts concerned so as to ensure that the health institutions of Bihar are encroachment free.

9. We also take note of the latest supplementary counter affidavit dated 25.08.2023, filed by the Additional Director, Health Department, Government of Bihar. Earlier,



under “**Mission 60**” and now “**Mission Parivartan**” of the Health Department, Bihar, boundaries of all Medical Colleges and Hospitals and District Hospitals of the State of Bihar have been completed and strengthened as required. In the remaining Government Health Institutions of Bihar, phase wise construction of boundaries of all health institutions have been decided to be carried out subject to availability of funds. The Joint Secretary, Health Department, Govt. of Bihar vide Departmental Letter No. 628(10) dated 15.05.2023 communicated the District Magistrate, Gopalganj/ Civil Surgeon, Gopalganj and vide reminder Letter No. 470(10) dated 23.06.2023 again requested the D.M., Gopalganj to send action taken report regarding removal of encroachment in the health institutions of Gopalganj. Regarding Referral Hospital, Bhore, Gopalganj the D.M., Gopalganj vide his Letter No. 1714 dated 13.07.2023 has informed that the action taken report has already been sent to the Department by C.S.-cum-C.M.O., Gopalganj vide Letter No. 1698 dated 15.06.2023. In the aforementioned report, it has been informed that the Circle Officer, Bhore, Gopalganj has been requested to get the land of Referral Hospital, Bhore measured, so that it may be verified as to whether its land is under encroachment or not. With reference to



CHC, Kuchaikot, Gopalganj, the Court of Ld. Additional Collector, Gopalganj by an order dated 23.03.2023 has rejected Jamabandi cancellation case pertaining to the land, said to be under encroachment and directed handing over of remaining land to the Hospital, after measurement.

10. We are convinced that suitable measures have been taken and that the PIL has served its purpose. We only hope that the drive to remove the encroachments shall be carried on relentlessly, devoid of any extraneous considerations and the district administrations as also the controlling authorities of the hospitals carry out periodic checks and ensure that there is no further encroachment made in the public space, which are dedicated to the medical care institutions.

11. The writ petitions stands disposed of with the above directions.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	22.09.2023
Transmission Date	

